



Billing Code: 4520-43

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by the MSHA's Office of Standards, Regulations, and Variances on or before [Insert date 30 days from the date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. Electronic Mail: zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.
2. Facsimile: 202-693-9441.
3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452,

Attention: Sheila McConnell, Acting Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2015-022-C.

Petitioner: Speed Mining LLC, P.O. Box 99, Dawes, West Virginia 25054.

Mine: American Eagle Mine, MSHA I.D. No. 46-05437, located in Kanawha County, West Virginia.

Regulation Affected: 30 CFR 77.214(a) (Refuse piles; general).

Modification Request: The petitioner requests a modification of the existing standard to permit, as an alternative method, backfill of the incised excavation [where previously sealed and abandoned mine openings in the No. 2 Gas (Powellton) coal seam exist] with coal refuse. The petitioner states that:

(1) The box cut configuration, as built mine opening seal locations and proposed backfill plans, is presented graphically on Drawing Nos. B15-334-E4 and B15-334-E5. The five mine openings within the box cut have previously been sealed in accordance with the MSHA approval. Subsequently, the sealed openings were backfilled with soil and rock. The surveyed limits of the soil and rock backfill are presented on Drawing No. B15-334-E4. During our field visit, it was noted that the backfill above opening No. 2 had settled, exposing the top of the opening. Additional soil and rock will be placed at the openings to at least 4 feet above the coal seam.

(2) The petitioner proposes to backfill the totally incised box cut excavation with coal refuse; however, 30 CFR 77.214(a) states that refuse piles shall not be located over abandoned openings. The apparent intent of this regulation is to limit the potential for a “blowout” of mine water and to limit the potential for combustion of the refuse and/or coal seam. The proposed backfill plan described below addresses these concerns and

provides a practical method of backfilling the box cut excavation that will provide an equivalent or greater measure of protection afforded by the existing standard.

(3) In the case of the Wet Branch box cut, the material excavated from the box cut was used to bring the preparation plant and coal stockpile areas to grade and is no longer available to eliminate the pit. The coal refuse will be used as a construction material, not to construct a new refuse pile. The five openings associated with the American Eagle Mine in the No. 2 Gas seam were sealed and have been backfilled with soil and rock. Additional soil and rock fill placement is specified to effectively isolate the openings from the proposed refuse backfill. The seal in Opening No. 2 located at the southern end of the box cut included a drain through the seal. It is proposed to cap this drain since there are openings at a lower elevation to the northwest currently discharging water from unmapped abandoned mine workings which were intersected by this mine. The previously placed and proposed soil and rock isolates the mine workings from the proposed coal refuse fill minimizing any potential for a mine fire to spread to the refuse fill. Any exposed coal seams will be covered with at least four feet of soil and rock as the coal refuse backfill is placed. The coal refuse will be placed in 2-foot maximum thick lifts. This requirement should preclude the potential for the refuse to spontaneously combust. Since the mine has a gravity outlet at an elevation lower than the bottom of the box cut, there is no significant potential for the mine workings at the box cut to flood.

The petitioner asserts that the proposed alternative method will provide an equivalent or greater measure of protection to that afforded by the existing standard.

Docket Number: M-2015-023-C.

Petitioner: M-Class Mining, LLC, 11351 N. Thompsonville Road, Macedonia, Illinois 62860.

Mine: MC #1 Mine, MSHA I.D. No. 11-03189, located in Franklin County, Illinois.

Regulation Affected: 30 CFR 75.503 (permissible electric face equipment; maintenance) and 18.35 (Portable (trailing) cables and cords).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of 995-volt trailing cables with a maximum length of 1000 feet. The petitioner states that:

(1) The 995-volt bolters trailing cables will not be smaller than No. 2 American Wire Gauge (AWG) cable.

(2) All circuit breakers used to protect the No. 2 AWG trailing cables exceeding 700 feet in length will have instantaneous trip units calibrated to trip at 800 amperes. The trip setting of these circuit breakers will be sealed or locked so that the settings cannot be changed, and these circuit breakers will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting No. 2 AWG cables. The cables will be maintained legible.

(3) Replacement instantaneous trip units used to protect the No. 2 AWG trailing cables will be calibrated to trip at 800 amperes and this setting will be sealed and locked.

(4) All components that provide short-circuit protection will have a sufficient interruption rating in accordance with the maximum calculated fault currents available.

(5) Short circuit settings must not exceed the setting specified in the approval documentation or 70 percent of the maximum available current, whichever is less.

(6) Any cable that is not in safe operating condition will be removed from service immediately and repaired or replaced.

(7) Each splice or repair in the trailing cables will be made in a workmanlike manner and in accordance with the instructions of the manufacturer of the splice or repair kit. The outer jacket of each splice or repair will be vulcanized with flame-resistant material or made with material that has been accepted by MSHA as flame-resistant.

(8) In the event that mining methods or operating procedures cause or contribute to the damage of any trailing cable, the trailing cable will be removed from service immediately, repaired or replaced, and additional precautions will be taken to ensure that in the future the cable is protected and maintained in safe operating condition.

(9) During the production day, persons designated by the mine operator will visibly examine the trailing cables to ensure that the cables are in safe operating condition. The instantaneous settings of the specially calibrated breakers will also be visually examined to ensure that the seals or locks have not been removed and that they do not exceed the settings stipulated in this petition.

(10) Permanent warning labels will be installed and maintained on the cover(s) of the power center identifying the location of each sealed short-circuit protective device. These labels will warn miners not to change or alter these sealed short-circuit settings.

(11) The alternative method will not be implemented until all miners who have been designated to examine the integrity of the seals or locks to verify the short-circuit settings, and to examine the trailing cables for defects, have received training.

(12) Within 60 days after the proposed decision and order becomes final, the petitioner will submit proposed revisions for their approved 30 CFR part 48 training

plans to the District Manager. The procedures specified in 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply. The training will include the following elements:

(a) Mining methods and operating procedures that will protect the trailing cables against damage.

(b) Proper procedures for examining the trailing cables to ensure that the cables are in safe operating condition.

(c) The hazards of setting the short-circuit interrupting device(s) too high to adequately protect the trailing cables.

(d) How to verify that the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M-2015-024-C.

Petitioner: Perry County Coal, LLC, P.O. Box 190, Lovely, Kentucky 41231.

Mine: E4-1 Mine, MSHA I.D. No. 15-18565, E4-2 Mine, MSHA I.D. No. 15-19015 and E3-1 Mine, MSHA I.D. No. 15-18662, located in Perry County, Kentucky.

Regulation Affected: 30 CFR 75.1506(a)(1) (Refuge alternatives).

Modification Request: The petitioner requests a modification of the existing standard to allow for alternate examination, testing, maintenance, and repairs of Mine Shield underground shelters. The petitioner seeks modification of the standard as it applies to examinations, testing, maintenance, and repairs by the refuge manufacturer (Mine Shield

LLC located at 322 Crab Orchard Road, Lancaster, Kentucky 40444). The petitioner states that:

(1) There are a total of 7 Mine Shield LLC shelters in service and 5 Mine Shield Shelter available in its Perry County Coal E4-1 Mine, E4-2 Mine, and E3-1 Mine. All units have been retrofitted as prescribed by MSHA.

(2) Examination, testing, maintenance, and repairs cannot be accomplished according to the manufacturer's recommendation since Mine Shield LLC is no longer in business and the technician conducting the examination, maintenance, and repairs no longer exist.

(3) The examinations, testing, maintenance, and repairs as required by the manufacturer's recommendation cannot be conducted since the manufacturer's technicians are no longer available. The petitioner proposes to:

- Have certified and qualified persons as defined in 30 CFR 75.151 conduct all examination, testing, maintenance, and repairs. A sufficient number of trained personnel will be provided. A list of qualified examiners, maintenance, and repair persons will be posted at each mine, and proof of training will be verifiable by MSHA forms 5000-23.

- Adhere to and comply with all provisions of the Manufacturer's Service Manual on all shelters.

- Train all examiners and repairmen through the WHA International Inc., Mr. Elliot Forsyth, BSME PE Chief, Technical Training Officer, Senior Oxygen Safety & Forensic Engineer, or his equivalent, on Level 1, Level 2, and Level 3.

- Train all examiners, maintenance, and repair persons in use of, and equip them with, a state of the art IBRID MX6 Gas Monitor (MSHA approval # 07-LPA-130006,

Part Approval # 222-A080002-0) gas monitoring device manufactured by Industrial Scientific Inc.

- Continue maintenance and repairs of incidental and routine nature such as replacing leaking air lines, breathable air cylinders, curtains, batteries, out dated items such as food, water, fire extinguishers, emergency first aid equipment, identification tags and other minor issues too numerous to list.

- Record and retain the results of all examinations, tests, maintenance, and repairs for one year and make available to MSHA.

Within 60 days after the Proposed Decision and Order (PDO) becomes final, the petitioner will submit proposed revisions for its approved part 48 training plan to the District Manager. These proposed revisions will specify initial and refresher training regarding the terms and conditions stated in the PDO.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M-2015-025-C.

Petitioner: Hamilton County Coal, LLC, P.O. Box 339, McLeansboro, Illinois 62959.

Mine: Mine No. 1, MSHA I.D. No. 11-03203, located in Hamilton County, Illinois.

Regulation Affected: 30 CFR 75.382(a) and (b) (Mechanical escape facilities).

Modification Request: The petitioner requests a modification of the existing standard to permit, through the use of alternative safety measures, the use of the slope belt conveyor as a mechanical escape facility at the Mine No. 1. The petitioner states that:

- (1) The Mine No. 1 extracts coal from the Herrin No. 6 seam by both continuous mining and longwall extraction methods. The coal seam is intersected by a vertical shaft

with cage hoist facility and by a dual compartment slope that contains a slope car hoist facility in the lower track compartment and a belt conveyor in the isolated upper compartment. Escapeways as required in 30 CFR 75.380(a) are connected to these hoist facilities as required by 30 CFR 75.380(i)(1) and (2).

(2) Rope and drum hoists used as mechanical escape facilities are subject to maintenance and/or conditions that could interfere with the operation of the facility for extended periods of time. The availability of a third mechanical escape facility enhances compliance with escapeway regulations in that there will be an additional escape facility during normal hoist operations and provide the second mechanical escape facility in the event there is required maintenance of either rope and drum hoist.

(3) The specific language of 30 CFR 75.382(a), (b), (c)(1) and (2), and (f) specifically addresses rope-type drum hoists and elevators. Subparagraph (b) also uses the term “or other devices” as a reference to a type of escape facility. While not specifying a belt conveyor as an “other device”, the subparagraph also does not preclude a belt conveyor from being used as an escape facility.

(4) Belt conveyors have been used to safely transport miners to and from the surface and underground areas of coal mines when the safety measures and provisions listed in the criteria of 30 CFR 75.1403-5 are provided. Belt conveyors so equipped for the transportation of personnel and used as a “mantrip” can also be used safely as a mechanical escape facility.

(5) Current technology for slope belt conveyors can now provide mechanical escape facility capability with no less measure of safety for the miner than the application of the mandatory standard. The 72-inch slope belt conveyor at Mine No. 1 is powered by

multiple drive motors located on the mine's surface facilities. Each drive motor is controlled by a variable frequency drive (VFD), coupled with encoders, that monitors the speed of the motor unit and can shut down the belt if a predetermined speed set point is exceeded.

(6) The original equipment manufacturer has by design, provided the necessary components (variable frequency drives, programmable logic computers and associated software, and switches/touchscreen controls) to provide for "mantrip-mode" operation. Additionally, the drive motor gear boxes are provided with a braking/blocking device that mechanically prevents rotation of the gears when the drive motors are deenergized.

The petitioner proposes to use the slope belt conveyor at Mine No. 1 as a mechanical escape facility conditioned on compliance with the following:

- The slope belt conveyor will be equipped with an automatic braking system which prevents the belt from reversing direction if power is lost.
- Positive acting stop control will be installed along the slope belt conveyor and such controls will be readily accessible and will be maintained so that the belt can be stopped or started at any location. Automatic controls will also deenergize the belt flight dumping onto the slope belt and will be so designed that the power cannot be reapplied to the belt flight dumping onto the slope belt while it is in use as an emergency escape facility.
- The slope belt conveyor will have a minimum vertical clearance of 18 inches from the nearest overhead projection when measured from the edge of the belt and there will be at least 36 inches of sided clearance where men board and leave the slope conveyor.

- When persons are being transported on the slope belt conveyor being used as an emergency escape facility, the belt speed will not exceed 300 feet per minute when the vertical clearance is less than 24 inches and will not exceed 350 feet per minute when the vertical clearance is 24 inches or more.

- Adequate illumination including colored lights or reflectors will be installed at all loading and unloading stations on the slope conveyor belt. Such colored lights will be located to be observable to all persons riding the conveyor belt.

- The slope conveyor belt will not be used to transport supplies and the slope conveyor will be clear of all material, including coal, before men are transported.

- Telephone or other suitable communications will be provided at points where persons are loaded on or unloaded from the slope belt conveyor.

- Suitable crossing facilities will be provided wherever persons must cross the moving slope conveyor or any other moving belt conveyor belt to gain access to or leave the mechanical escape facility.

- The belt slope conveyor will have a minimum 48-inch wide clear travelway on at least one side and will have a minimum 24-inch clear travelway on the opposite side.

- Suitable belt crossing facilities will be provided wherever necessary to maintain a continuous route of travel alongside the slope belt conveyor from the slope bottom where the alternative escape exits the slope belt entry at the surface.

- The slope belt conveyor will be examined by a certified person at least once a week. This examination will include:

- (a) Operating the slope belt conveyor as an emergency escape facility;

(b) Examination for hazards along the slope belt conveyor and examination of the mechanical and electrical condition of the slope conveyor system;

(c) Immediate reporting of hazards or mechanical deficiencies observed; and

(d) Confirmation that any reported hazards or defects are corrected before the slope belt is used as an emergency escape facility.

- The slope conveyor belt will also be subject to the preshift examination requirements of 30 CFR 75.360(b)(2) and, where one of those examinations include operation of the slope conveyor as a mechanical escape facility and examination for mechanical and electrical condition of the slope belt conveyor, the weekly examination requirements will be satisfied.

- The person(s) making the examinations will certify by initials, date, and the time the examinations were made. The certification will be at the loading and unloading stations of the slope conveyor belt.

The petitioner asserts that the proposed alternative method will at all times provide the same degree of safety as that provided by the existing standard.

Sheila McConnell
Acting Director,
Office of Standards, Regulations, and Variances

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